

AMENDED IN SENATE AUGUST 19, 2002  
AMENDED IN ASSEMBLY JANUARY 17, 2002  
AMENDED IN ASSEMBLY JANUARY 7, 2002

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

## ASSEMBLY BILL

**No. 1010**

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**Introduced by Assembly Member ~~Dutra~~ Members Correa,  
Daucher, Negrete McLeod, and Rod Pacheco  
(Principal coauthor: Assembly Member Robert Pacheco)  
(Coauthors: Assembly Members Kelley and Longville)  
(Coauthor: Senator Soto)**

February 23, 2001

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~~An act to amend Section 1656.4 of the Vehicle Code, relating to vehicles.~~ *An act to amend Section 130240 of the Public Utilities Code, and to amend Section 143 of the Streets and Highways Code, relating to transportation, and declaring the urgency thereof, to take effect immediately.*

### LEGISLATIVE COUNSEL'S DIGEST

AB 1010, as amended, ~~Dutra~~ Correa. ~~Motor vehicles: consumer affairs.~~ *Transportation: franchise agreements.*

*(1) Existing law authorizes the Department of Transportation to enter into agreements with private entities for the construction by and lease to private entities of 4 transportation demonstration projects, including at least one in northern California and one in southern California. Existing law authorizes these private entities to charge tolls for the use of the privately constructed facilities. Existing law requires that any excess toll revenue be applied to any debt the entity incurred*

*building the facilities or be paid into the State Highway Account in the State Transportation Fund. Existing law provides that the department may continue to charge tolls for use of these facilities after the lease held by the private entity has expired.*

*This bill would provide that the collection of tolls for the use of these facilities would terminate at the expiration of the franchise agreement.*

*(2) Existing law authorizes the Orange County Transportation Authority to acquire, construct, develop, lease, or dispose of rights-of-way, rail lines, bus lines, and other facilities necessary for transit purposes.*

*This bill would additionally authorize the authority to acquire streets, highways, bridges, tunnels, and connector roads necessary for transit or transportation purposes, as defined. The bill would require the department to approve the assignment of a franchise agreement between the department and the California Private Transportation Company for State Highway Route 91 to the Orange County Transportation Authority. The bill would authorize the authority to impose tolls on Route 91 to be used for specified purposes. The bill would create an advisory committee composed of 5 voting members each from the board of the Orange County Transportation Authority and the Riverside County Transportation Commission, and 3 nonvoting members from the San Bernardino Associated Governments and the department to review and make recommendations to the authority regarding the facilities acquired, tolls imposed, and the maintenance and operations of State Route 91. The bill would make the exercise of the authority's powers subject to the approval of the Board of Supervisors of Riverside County and the Riverside County Transportation Commission consultation, as specified with the advisory committee.*

*Because the bill would require the Riverside County Transportation Commission to appoint 5 of its members to the advisory committee and the San Bernardino Associated Governments to appoint one member to the advisory committee, the bill would impose a state-mandated local program.*

*(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000*



statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

*This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.*

*(4) This bill would declare that it is to take effect immediately as an urgency statute.*

~~Existing law governing the Department of Motor Vehicles requires the department to make available on its Internet Web site specified consumer protection contact information, to assist consumers who plan to purchase a vehicle or who have purchased a vehicle. Existing law provides that, upon appropriation by the Legislature, money from the Consumer Fraud Protection Program Fund shall be available for the consumer protection activities of the department, including, but not limited to, expenditures by the department to finance these Internet Web site obligations.~~

~~This bill would expand the consumer information provided under that law to include contact information for government, law enforcement, and consumer agencies that assist victims of identity theft. This bill would require that the same consumer protection information required by these laws to be available on the Internet also be available in printed form at department field offices, and would eliminate a requirement that the existing Internet obligations be fulfilled on or before July 1, 1997.~~

Vote: ~~majority~~ <sup>2/3</sup>. Appropriation: no. Fiscal committee: yes. State-mandated local program: ~~no~~ yes.

*The people of the State of California do enact as follows:*

1 ~~SECTION 1. — Section 1656.4 of the Vehicle Code is amended~~

2 *SECTION 1. The Legislature finds and declares all of the*  
3 *following:*

4 *(a) It is essential for the economic well-being of the state and*  
5 *the maintenance of a high quality of life that the people of*  
6 *California have an efficient transportation system.*

7 *(b) The Department of Transportation (hereafter the*  
8 *department) is a party to a franchise agreement with the California*  
9 *Private Transportation Company, L.P. (CPTC), as authorized by*  
10 *Section 143 of the Streets and Highways Code, providing for*

1 *privately financed transportation facilities within State Highway*  
2 *Route 91 (hereafter Route 91), with transportation facility*  
3 *development rights extending from Interstate 15 in Riverside*  
4 *County to the Los Angeles County and Orange County boundary.*  
5 *The completed facilities include two lanes in each direction for*  
6 *approximately 10 miles in the County of Orange. Tolls are imposed*  
7 *for use of the facilities to provide a revenue stream for the CPTC*  
8 *to finance the costs of construction and operation of the*  
9 *transportation facilities and to earn a profit consistent with the*  
10 *provisions of the franchise agreement. The franchise agreement*  
11 *extends to the year 2030 and includes provisions prohibiting*  
12 *improvements to Route 91 in order to protect the investment in the*  
13 *privately financed facilities (hereafter noncompete provisions).*

14 *(c) The County of Riverside is currently challenging the*  
15 *legality of the noncompete provisions in a legal proceeding against*  
16 *the department and the CPTC.*

17 *(d) Current congestion on Route 91 and projections for future*  
18 *vehicle traffic and transportation demand through this corridor*  
19 *make it imperative that Route 91 improvements be planned and*  
20 *constructed as soon as possible.*

21 *(e) The Orange County Transportation Authority (OCTA) has*  
22 *determined that acquisition of the CPTC interest in the franchise*  
23 *agreement is desirable and is the most appropriate means to*  
24 *eliminate the noncompete provisions of the franchise agreement.*  
25 *By replacing private control of the franchise agreement and*  
26 *bringing the transportation facilities under public ownership,*  
27 *OCTA will restore the authority to public agencies, including*  
28 *OCTA, the department, and the Riverside County Transportation*  
29 *Commission (hereafter RCTC), to make much needed*  
30 *improvements in the heavily congested Route 91 corridor and for*  
31 *OCTA to manage the transportation facilities to maximize*  
32 *throughput of vehicles and passengers rather than profits.*

33 *(f) The noncompete provisions shall be eliminated through the*  
34 *sale of CPTC's interest in the franchise agreement to the OCTA.*  
35 *This will facilitate the end of the litigation and enable planning*  
36 *and construction of critically needed transportation improvements*  
37 *to Route 91 through the Counties of Orange and Riverside.*

38 *(g) In pursuing the acquisition of the franchise agreement,*  
39 *OCTA undertook a rigorous valuation process that was comprised*  
40 *of three discrete elements. First, OCTA staff examined pertinent*

1 traffic and related revenue projections provided by CPTC and  
2 determined a value of the CPTC enterprise based on a discounted  
3 cashflow, a business valuation method in common use and  
4 believed to be most appropriate in this circumstance in the absence  
5 of other comparative business enterprises operating privately  
6 controlled toll lanes in public highways. This produced a valuation  
7 range between two hundred ten million dollars (\$210,000,000)  
8 and two hundred fifteen million dollars (\$215,000,000). Second,  
9 OCTA examined the cost to replace the transportation facility at  
10 today's construction costs. This produced a valuation estimate of  
11 two hundred million dollars (\$200,000,000). Finally, OCTA  
12 engaged an outside accounting firm to prepare an independent  
13 third-party fairness opinion on the valuation process, which  
14 validated the OCTA valuation methods and produced a valuation  
15 estimate of the transportation facility in a range between two  
16 hundred two million dollars (\$202,000,000) and two hundred  
17 twenty million dollars (\$220,000,000).

18 (h) OCTA used the valuation range produced as a guideline in  
19 bilateral negotiations with CPTC to acquire the franchise  
20 agreement rights. A purchase price was negotiated with a value of  
21 two hundred seven million five hundred thousand dollars  
22 (\$207,500,000). Based on this purchase price, OCTA has  
23 structured a financing plan that would have OCTA assume existing  
24 CPTC debt of one hundred thirty five million dollars  
25 (\$135,000,000), supplemented by an additional payment by OCTA  
26 to CPTC of seventy two million five hundred thousand dollars  
27 (\$72,500,000) in cash from existing reserves available to OCTA.  
28 As a result of the proposed transaction, OCTA will replace CPTC  
29 as the holder of the franchise agreement and the authority for  
30 CPTC to collect tolls will terminate.

31 (i) Current tolls should be reduced and to the extent feasible,  
32 the duration of the imposition of tolls should be minimized, but  
33 tolls shall be adequate to assure the payment of all financing  
34 required to acquire the facilities, and tolls shall be eliminated no  
35 later than the year 2030, consistent with the terms of the franchise  
36 agreement and Section 143 of the Streets and Highways Code.

37 SEC. 2. Section 130240 of the Public Utilities Code is  
38 amended to read:

39 130240. (a) (1) "Transit" means as defined in Section 40005.

1 (2) “Transportation” means the passage of vehicles, bicycles,  
2 or pedestrians, including streets, highways, bridges, and  
3 connector roads, exclusive of transit.

4 (b) (1) The Orange County Transportation Authority may  
5 acquire, construct, develop, lease, jointly develop, own, operate,  
6 maintain, control, use, jointly use, or dispose of rights-of-way,  
7 streets, highways, bridges, connector roads, rail lines, monorails,  
8 guideways, buslines, stations, platforms, switches, yards,  
9 terminals, parking lots, air rights, land rights, development rights,  
10 entrances and exits, and any and all other facilities for, incidental  
11 to, necessary for, or convenient for *transportation or* transit  
12 service, including, but not limited to, facilities and structures  
13 physically or functionally related to *transportation or* transit  
14 service, within or partly without the county, underground, upon,  
15 or above the ground and under, upon or over public streets,  
16 highways, bridges, or other public ways or waterways, together  
17 with all physical structures necessary for, incidental to, or  
18 convenient for the access of persons and vehicles thereto, and may  
19 acquire, lease, sell, or otherwise contract with respect to any  
20 interest in or rights to the use or joint use of any or all of the  
21 foregoing. However, installations on state freeways are subject to  
22 the approval of the Department of Transportation (*department*)  
23 and installations in other state highways are subject to Article 2  
24 (commencing with Section 670) of Chapter 3 of Division 1 of the  
25 Streets and Highways Code.

26 (2) *The exercise of the powers provided to the Orange County*  
27 *Transportation Authority in paragraph (1) is subject to approval*  
28 *by the Board of Supervisors of Riverside County and the Riverside*  
29 *County Transportation Commission and in consultation with the*  
30 *advisory committee described in paragraph (1) of subdivision (h)*  
31 *as it relates to the use of those powers in Riverside County under*  
32 *the terms of the franchise agreement described in subdivision (c).*

33 (c) *The department shall approve the assignment to the Orange*  
34 *County Transportation Authority of the Amended and Restated*  
35 *Development Franchise Agreement, as amended, between the*  
36 *department and the California Private Transportation Company,*  
37 *L.P. (CPTC) for the State Highway Route 91 median improvements*  
38 *as authorized by Section 143 of the Streets and Highways Code,*  
39 *subject to the requirement that subdivisions (a) to (f), inclusive, of*  
40 *Section 2 of Article 3 of the restated franchise agreement be deleted*



1 *in their entirety in the event that CPTC and the authority agree to*  
2 *the assignment of all of CPTC's interests in the franchise*  
3 *agreement to the authority.*

4 *(d) The Orange County Transportation Authority shall have*  
5 *the authority to impose tolls for use of the State Highway Route 91*  
6 *facilities as authorized by the franchise agreement.*

7 *(e) Toll revenues from the use of State Highway Route 91*  
8 *facilities between Interstate Highway Route 15 and State Highway*  
9 *Route 55 shall only be used by the Orange County Transportation*  
10 *Authority for capital and operating expenses, including payment*  
11 *of purchase costs, debt service, and satisfaction of other covenants*  
12 *and obligations relating to indebtedness, and for transportation*  
13 *and transit facilities and services serving the area of State*  
14 *Highway Route 91 between Interstate Highway Route 15 and State*  
15 *Highway Route 55, excluding other toll roads.*

16 *(f) The provisions of Chapter 5 (commencing with Section*  
17 *130500) of Division 12 shall apply with full force and effect to the*  
18 *Orange County Transportation Authority to the same extent and*  
19 *in the same manner as the provisions apply to the Los Angeles*  
20 *Metropolitan Transportation Authority, except that actions taken*  
21 *pursuant to this subdivision shall be limited to the purposes of this*  
22 *section. "Transit," as used in that chapter, shall mean and include*  
23 *"transit" and "transportation" as defined in subdivision (a).*

24 *(g) Notwithstanding Section 143 of the Streets and Highways*  
25 *Code, the State Highway Route 91 facility constructed and*  
26 *operated under the authority of a franchise agreement approved*  
27 *pursuant to that section shall revert to the state at the expiration*  
28 *of the lease or termination of the franchise agreement at no cost*  
29 *to the state.*

30 *(h) (1) An advisory committee shall be created to review issues*  
31 *and make recommendations to the Orange County Transportation*  
32 *Authority regarding the transportation facilities acquired from*  
33 *CPTC, including tolls imposed, operations, maintenance, and use*  
34 *of toll revenues, and improvements in the area of State Highway*  
35 *Route 91 between Interstate Highway Route 15 and State Highway*  
36 *Route 55, including the identification and siting of alternative*  
37 *highways. The committee shall consist of 10 voting members and*  
38 *three nonvoting members, as follows:*

39 *(A) Five members of the board of directors of the Orange*  
40 *County Transportation Authority appointed by that board.*

1 (B) Five members of the Riverside County Transportation  
2 Commission appointed by that commission.

3 (C) One member of the San Bernardino Associated  
4 Governments appointed by that body and the district directors of  
5 Districts 8 and 12 of the Department of Transportation, all of  
6 whom shall be nonvoting members.

7 (2) When reviewing the initial toll structure proposed by the  
8 Orange County Transportation Authority or any changes to the  
9 toll structure, the advisory committee shall place an information  
10 item on a regularly scheduled agenda for due public comment and  
11 consideration of the advisory committee.

12 (3) The Orange County Transportation Authority shall conduct  
13 an audit on an annual basis of the toll revenues collected and  
14 expenditures made during the term of franchise agreement. The  
15 audit shall review revenues and expenditures for consistency with  
16 the provisions of this section and shall be provided to the advisory  
17 committee.

18 (i) The Orange County Transportation Authority shall not  
19 impose tolls for the use of nor construct and operate State Highway  
20 Route 91 facilities in the County of Riverside without prior  
21 approval by the Board of Supervisors of the County of Riverside,  
22 the Riverside County Transportation Commission, and the  
23 advisory committee.

24 (j) (1) The Orange County Transportation Authority shall not  
25 sell or assign its interest in the franchise agreement without  
26 approval by the department.

27 (2) In the event that the Orange County Transportation  
28 Authority decides to sell or assign its interest in the franchise  
29 agreement, the Orange County Transportation Authority shall  
30 provide written notice at least 90 days in advance of the date they  
31 submit their request for approval by the department pursuant to  
32 this subdivision. The written notice shall be provided to the  
33 advisory committee and the Riverside County Transportation  
34 Commission.

35 SEC. 3. Section 143 of the Streets and Highways Code is  
36 amended to read:

37 143. (a) The department may solicit proposals and enter into  
38 agreements with private entities, or consortia thereof, for the  
39 construction by, and lease to, private entities of four public



1 transportation demonstration projects, at least one of which shall  
2 be in northern California and one in southern California.

3 (b) For the purpose of facilitating those projects, the  
4 agreements may include provisions for the lease of rights-of-way  
5 in, and airspace over or under, state highways, for the granting of  
6 necessary easements, and for the issuance of permits or other  
7 authorizations to enable the private entity to construct  
8 transportation facilities supplemental to existing state-owned  
9 transportation facilities. Facilities constructed by a private entity  
10 pursuant to this section shall, at all times, be owned by the state.  
11 The agreement shall provide for the lease of those facilities to the  
12 private entity for up to 35 years. In consideration therefor, the  
13 agreement shall provide for complete reversion of the privately  
14 constructed facility to the state at the expiration of the lease at no  
15 charge to the state.

16 (c) The department may exercise any power possessed by it  
17 with respect to the development and construction of state  
18 transportation projects to facilitate the development and  
19 construction of transportation projects pursuant to this section.  
20 Agreements for maintenance and police services entered into  
21 pursuant to this section shall provide for full reimbursement for  
22 services rendered by the department or other state agencies. The  
23 department may provide services for which it is reimbursed with  
24 respect to preliminary planning, environmental certification, and  
25 preliminary design of the demonstration projects.

26 (d) (1) Agreements entered into pursuant to this section shall  
27 authorize the private entity to impose tolls for use of a facility  
28 constructed by it, and shall require that over the term of the lease  
29 the toll revenues be applied to payment of the private entity's  
30 capital outlay costs for the project, the costs associated with  
31 operations, toll collection, administration of the facility,  
32 reimbursement to the state for the costs of maintenance and police  
33 services, and a reasonable return on investment to the private  
34 entity. The agreement shall require that any excess toll revenue  
35 either be applied to any indebtedness incurred by the private entity  
36 with respect to the project or be paid into the State Highway  
37 Account, or both. ~~Subsequent to expiration of the lease of a facility~~  
38 ~~to a private entity, the department may continue to charge tolls for~~  
39 ~~use of the facility.~~

(2) *The authority to collect tolls for the use of these facilities shall terminate at the expiration of the franchise agreement.*

(e) The plans and specifications for each project constructed pursuant to this section shall comply with the department's standards for state transportation projects. A facility constructed by and leased to a private entity shall, during the term of the lease, be deemed to be a part of the state highway system for purposes of identification, maintenance, enforcement of traffic laws, and for the purposes of Division 3.6 (commencing with Section 810) of Title 1 of the Government Code.

*SEC. 4. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars (\$1,000,000), reimbursement shall be made from the State Mandates Claims Fund.*

*SEC. 5. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:*

*In order to implement necessary improvements to the State Highway Route 91 corridor as quickly as possible, it is necessary that this act take effect immediately.*

*to read:*

~~1656.4. (a) The department, in consultation with the Department of Consumer Affairs, shall make available on its Internet Web site, and in printed form at its field offices, information to assist consumers who plan to purchase a vehicle or who have purchased a vehicle. The information shall, at a minimum, contain the names, addresses, electronic addresses, and telephone numbers of all of the following:~~

~~(1) State and federal government agencies that deal with consumer affairs and vehicles.~~

~~(2) Vehicle arbitration services.~~

~~(3) Consumer organizations that provide information and direct assistance to consumers with vehicle concerns.~~

1     ~~(4) Government agencies, law enforcement agencies, and~~  
2     ~~consumer organizations that assist victims of identity theft.~~  
3     ~~(b) Money deposited in the Consumer Fraud Protection~~  
4     ~~Program Fund shall be available, upon appropriation by the~~  
5     ~~Legislature, for the consumer protection activities of the~~  
6     ~~department, including, but not limited to, expenditures by the~~  
7     ~~department to comply with the requirements specified in~~  
8     ~~subdivision (a).~~

